

**NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION  
OFFICE OF WATER RESOURCES MANAGEMENT COORDINATION**

**Adopted Amendment to the Ocean County Water Quality Management Plan**

**Public Notice**

**Take notice** that on **MAY 12 2015**, pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Statewide Water Quality Management Planning rules (N.J.A.C. 7:15-3.4), an amendment to the Ocean County WQMP was adopted by the Department of Environmental Protection (Department). This amendment, entitled “Toms River Senior Affordable Apartments”, submitted on behalf of Toms River Township, expands the Ocean County Utilities Authority (OCUA) sewer service area (SSA) to allow for the construction of an apartment complex. This amendment has been reviewed in accordance with the Water Quality Management Planning rules at N.J.A.C. 7:15 and P.L 2013, c.188. This notice represents the Department’s determination that the amendment is in compliance with the regulatory criteria pursuant to N.J.A.C. 7:15.

The proposed project site is located in Toms River Township, Ocean County on Block 166, Lots 2 and 10. This amendment would allow for the construction of 102 age-restricted apartment units with a total of 94 one-bedroom apartments, 8 two-bedroom apartments, and a clubhouse/rental office on the above referenced parcel. The projected wastewater flow for the proposed new development, calculated in accordance with N.J.A.C. 7:14A-23.3, is 12,227.5 gallons per day (gpd).

The currently adopted SSA excludes a significant portion of the above referenced property due to the presence of a Special Water Resource Protection Area (300-foot buffer) on the Slab Branch, a Category One Tributary to the Toms

River, which had been mapped as being located on the property. A site investigation by the Department's Division of Land Use Regulation (DLUR) on August 19, 2014 determined that the Slab Branch does not, in fact, exist on the property and had been mapped incorrectly. The report found that the Slab Branch actually terminates south of the proposed project site. On October 3, 2014 DLUR issued a Flood Hazard Applicability Determination ("jurisdictional determination"), under file No. 1507-11-0006.1 APD 140001 for the proposed project. This determination stated that: "...the Department has determined that the proposed project activities are located outside of the assumed flood hazard area and riparian zone of the nearest regulated waterway (a tributary to the Toms River named Slab Branch). Therefore, the formal authorization for the proposed project is not required under the Flood Hazard Area Control Act Rules."

While the field verified location of the Slab Branch is not located on the property, a portion of its 300 foot buffer area still extends partially onto the proposed project site. This area will still remain excluded from the SSA. No sewage producing structures are proposed for this portion of the property.

Of the total 11.9 acres that comprise Block 166, Lot 2 and 10, the portion proposed to be added to the SSA is 1.9 acres specifically on Block 166, Lot 10. A 3.61 acre tree conservation area, a wetlands, a wetlands buffer area and the above referenced 300 foot riparian buffer will remain outside of the SSA. These areas may be subject to a conservation deed restriction to meet mitigation requirements for impacts to critical wildlife habitat.

As outlined at N.J.A.C. 7:15-5.24(a), sewer service may only be provided to areas that are not identified as environmentally sensitive areas (ESAs), Coastal Fringe, Coastal Rural and Coastal Environmentally Sensitive Planning Areas, beaches, coastal high hazard areas, and dunes.

Pursuant to N.J.A.C. 7:15-5.24(b), ESAs are defined as contiguous areas of 25 acres or larger consisting of habitat for threatened and endangered species as identified on the Landscape Project Maps of Habitat for Endangered, Threatened or Other Priority Species, Natural Heritage Priority Sites, Category One (C1) special water resource protection areas, and wetlands, alone or in combination. Aside from a portion of the 300 foot buffer associated with the Slab Branch that extends partially onto the proposed project site, as noted above, and wetlands, there are no other environmentally sensitive areas identified on the parcel. These environmentally sensitive areas are not included in the SSA.

In accordance with N.J.A.C. 7:15-5.24(b)1, to determine areas designated as threatened or endangered species habitat, the Department utilized the Division of Fish and Wildlife's Landscape Project Maps of Habitat for Endangered, Threatened or Other Priority Species, version 3.1. Areas identified by the Landscape Project as being suitable habitat for threatened and endangered species Ranks 3 (State threatened) , 4 (State endangered), and 5 (Federal endangered or threatened) are not to be included in proposed SSAs except as provided under N.J.A.C. 7:15-5.24(e) – (h), or unless a site has undergone a site specific Habitat Suitability Determination prepared in accordance with N.J.A.C. 7:15-5.26 that found the site to be not suitable habitat, or pursuant with N.J.A.C. 7:15-5.24(g)2, the Department determined the ESA is not critical to a population of endangered or threatened species the loss of which would decrease the likelihood of the survival or recovery of the identified species. Review of the project site has determined that no threatened or endangered species habitat exists on site.

The Department also reviewed Critical Wildlife Habitat (CWH) as part of a CAFRA permit review in accordance with N.J.A.C. 7:7E-3.39. CWH are specific areas known to serve an essential role in maintaining wildlife, particularly in wintering, breeding and migrating. The Department considers patches of woody vegetation along the Atlantic seaboard to serve a critical role in providing resting and foraging habitat for migratory birds. Within the coastal zone mainland,

patches of woody vegetation equivalent to 20 acres in size, and greater, function as migratory bird stopover habitat.

The proposed project site is located within a large woodland complex that was determined to be in excess of 20 acres through an analysis of current aerial photography and Land Use Land Cover mapping. As a result, the associated woody community exceeds the minimum patch size identified as a characteristic of migratory songbird habitat and the applicant must conduct mitigation to offset their impact on CWH. The Department has determined that the applicant may possibly be able to address CWH mitigation needs entirely onsite. The placement of a conservation deed restriction on the above referenced tree preservation area as well as the wetlands, wetlands buffer areas, and riparian buffer area, would result in adequate onsite mitigation for the direct loss of 3.5 acres of CWH, as described in condition 6 of the applicant's CAFRA permit that has been issued by the Department on April 2, 2015.

In accordance with N.J.A.C. 7:15-5.24(b)2, areas mapped as Natural Heritage Priority Sites are not to be included in proposed SSAs, except as provided under N.J.A.C. 7:15-5.24(e) – (h). Review of the project site has determined that no Natural Heritage Priority Sites exist on site.

In accordance with N.J.A.C. 7:15-5.24(b)3, areas identified as special water resource protection areas along Category One waterways and their tributaries are not to be included in SSA's, except as provided under N.J.A.C. 7:15-5.24(e) – (h). As stated above, while the field verified location of the Slab Branch is not located on the property, a portion of its 300 foot buffer area still extends partially onto the proposed project site. This area will remain excluded from the sewer service area and no sewage producing structures are proposed for this portion of the property.

In accordance with N.J.A.C. 7:15-5.24(b)4, areas mapped as wetlands pursuant to N.J.S.A. 13:9A-1 and 13:9B-25 are not to be included in proposed SSAs, except

as provided under N.J.A.C. 7:15-5.24(e) – (h). In accordance with N.J.A.C. 7:15-5.24(e)2, a Letter of Interpretation: Line Verification File # 1507-11-0006.1, FWW140003, a Freshwater Wetlands General Permit #11 FWW140001 and a Wetlands Transition Area Waiver Averaging Plan FWW140002 have been approved by the Department, confirming that the extent of wetlands and transition area are accurately delineated on the proposed project activity site and confirming that the proposed project meets the requirements for approval to disturb regulated areas pursuant to N.J.A.C. 7:7A-4.3, 5.11, 6.2 and 13.1. The provisions at N.J.A.C. 7:15-5.24(b)4, have been satisfied by the exclusion of the wetlands areas from the proposed SSA.

Pursuant to N.J.A.C. 7:15-5.24(c), certain coastal planning areas, not applicable here, must also be excluded from SSA. Specifically, there are no Coastal Fringe Planning Areas, Coastal Rural Planning Areas, or Coastal Environmentally Sensitive Areas on the project site.

In accordance with N.J.A.C. 7:15-5.24(d)1, areas with Federal 201 grant limitations that prohibit the extension of sewers are excluded from the adopted SSA either where local mapped information exists delineating these areas, or through a narrative description where mapping does not exist, except as provided under N.J.A.C. 7:15-5.24(f)1. Pre-existing grant conditions and requirements (from Federal and State grants or loans for sewerage facilities), which provide for restriction of sewer service to environmentally sensitive areas, are unaffected by adoption of these amendments.

In accordance with N.J.A.C. 7:15-5.24(d)1, there are other special restricted areas, which must also be excluded from SSA pursuant to N.J.A.C. 7:15-5.24(d)2 through 4. None of those special restricted areas are applicable here. Specifically, there are no beaches, coastal high hazard areas, or dunes on the project site.

In accordance with N.J.A.C. 7:15-5.25(h)1, the projected wastewater flow of the project has been evaluated. The Department has determined that the OCUA Central Wastewater Pollution Control Facility has adequate available capacity to treat the proposed wastewater flow from this project. The projected wastewater flow for the proposed new development, calculated in accordance with N.J.A.C. 7:14A-23.3, is 12,227.5 gallons per day (gpd). Currently the OCUA Central WPCF (NJ0029408) is permitted to discharge up to 32 Million Gallons per day (MGD) of treated wastewater to the Atlantic Ocean. Based on an average of the monthly average flow for the most recent twelve month period for which discharge monitoring data is available, the existing wastewater flow discharged from the OCUA Central WPCF was calculated to be 21.55 MGD. The addition of the proposed development's projected wastewater flow would not cause the wastewater generation potential of the expanded SSA to exceed the permitted capacity of the OCUA Central WPCF.

In accordance with N.J.A.C. 7:15-5.25(h)3 the water supply need for the proposed project has been evaluated. Water supply for the proposed development will be provided by the United Water Toms River which is a public water system which withdraws water from the Kirkwood Cohansey and Atlantic City 800 foot Sands Aquifers. The location of the diversion is Toms River and the water allocation permit numbers are 5000 and 5001. The existing water allocation permits will not require modification to serve the proposed project. United Water Toms River is currently permitted under PWSID No. 1507005 to allocate 734.35 million gallons per month (MGM) and has a water supply surplus of 113.927 MGM. The proposed water demand of the project, calculated in accordance with N.J.A.C. 7:15-5.25(f)1i, is 0.402 MGM; therefore sufficient water supply is available to serve the proposed development within the existing water allocation permit.

In accordance with N.J.A.C. 7:15-5.25(h)4, a project or activity's stormwater management is to be evaluated. However, P.L. 2013, c. 188 directs that there is a presumption that an engineered subdivision or site plan is not required. Without

such information a review and determination of compliance with the Stormwater Management rules (N.J.A.C. 7:8) is not possible. The county and local governments are responsible for review and implementation of the Stormwater Management rules during their review and approval of proposed development. Toms River Township has an adopted stormwater management ordinance (No. 4060-06) which complies with the performance standards of the Stormwater Management Rules at N.J.A.C. 7:8.

In accordance with N.J.A.C. 7:15-5.25(h)5, the proposed project is not located in the riparian zone. As noted above, a portion of the 300 foot buffer associated with the Slab Branch extends partially onto the proposed project site. This area will still remain excluded from the SSA. No sewage producing structures are proposed for this portion of the property.

A Riparian buffer zone, as described above has been identified on the property. Riparian zones or buffers are established along all surface waters, based on the surface water body's classification designated at N.J.A.C. 7:9B, under the following regulations: the Flood Hazard Area Control Act Rules, the Stormwater Management rules, and the Water Quality Management Planning rules. To become compliant, and in accordance with N.J.A.C. 7:15-5.25(h)5i, the Riparian Corridor Analysis has been satisfied by applying the 300 foot buffer to the applicable portions of the Slab Branch, and the exclusion of the buffer area from the proposed SSA.

In accordance with N.J.A.C. 7:15-5.25(h)6, proposed development disturbance is not to be located in areas with steep slopes, defined as any slope greater than 20 percent. There are no steep slopes on the subject site.

This amendment proposal was noticed in the DEP Bulletin on February 18, 2015 at Volume 39, Issue 4, pages 7-12 and no comments were received during the comment period.

Additional issues which may need to be addressed for any new or expanded wastewater treatment facility proposal include, but are not limited to, compliance with stormwater regulations, antidegradation, effluent limitations, water quality analysis, and exact locations and designs of future treatment works (pump stations, interceptors, sewers, outfalls, wastewater treatment plants); and development in wetlands, flood prone areas, designated Wild and Scenic River areas, or other environmentally sensitive areas which are subject to regulation under Federal or State statutes or rules. Additionally, sewer service to any particular project is subject to contractual allocations between municipalities, authorities and/or private parties, and is not guaranteed by this amendment.



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Colleen Kokas, Director  
Office of Water Resources Management Coordination  
Department of Environmental Protection



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Date